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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Andrew Moorehead,
10 Plaintiff,

11 v.

12 Pima County Sheriff's Department,
13 Defendant.
14

No. CV-19-00477-TUC-DCB

ORDER

15 On October 1, 2019, Plaintiff lodged an affidavit of inability to pay costs or give
16 security for the commencement of this action and filed a Complaint, pro se. It appears that
17 he meets the in forma pauperis requirements of 28 U.S.C. §1915.

18 Plaintiff sues the Pima County Sheriffs Department. He alleges: "I went to the Pima
19 County Consolidated Justice Court and my food purchased with SNAP money was taken
20 away without my consent."¹ (Complaint (Doc. 1) at 4.) He asserts federal question
21 jurisdiction based on: "Federal funding of Food Stamps Program in Arizona." *Id.* at 3.

22 Federal courts are courts of limited jurisdiction and may only adjudicate those cases
23 over which they have subject matter jurisdiction: basically, those cases involving diversity
24 of citizenship or a federal question. *Kikkonen v. Guardian Life Ins. Co. of America*, 511
25 U.S. 375 (1994). Where there is neither diversity nor a constitutional violation of an
26 individual's rights, this Court has no jurisdiction over the action.

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28 ¹ Plaintiff's handwriting is extremely hard to read and nearly resulted in dismissal of the
action because the Court could not read it and, therefore, could not determine whether or
not he stated allegations to support a federal cause of action.

1 Section 1915(e) provides for dismissal of a Complaint filed in forma pauperis if the
2 Court is convinced that the action is frivolous. Frivolousness exists if the plaintiff would
3 not be entitled to relief under any arguable construction of law or fact. *Neitzke v. Williams*,
4 490 U.S. 319, 325 (1989).

5 Factual frivolousness includes allegations that are "clearly baseless," "fanciful,"
6 "fantastic," or "delusional." *Id.* at 327-28. Unlike Rule 12(b)(6), § 1915 "“accords judges
7 not only the authority to dismiss a claim based on an indisputably meritless legal theory,
8 but also the unusual power to pierce the veil of the complaint's factual allegations and
9 dismiss those claims whose factual contentions are clearly baseless.”” *Denton v.*
10 *Hernandez*, 504 U.S. 25, 31 (1992) (quoting *Neitzke*, 490 U.S. at 327).

11 Alternatively, legal frivolousness justifies dismissal under § 1915(e) where a
12 complaint is based on "an indisputably meritless legal theory...[such as] claims against
13 which it is clear that the defendants are immune from suit, and claims of infringement of a
14 legal interest which clearly does not exist...." *Neitzke*, 490 U.S. at 327.

15 Here, Plaintiff fails to allege any facts that would bring this action within the
16 jurisdiction of the federal court. Plaintiff's Complaint fails to allege any facts to suggest a
17 constitutional violation or violation of federal law occurred. The Complaint is so factually
18 deficient that the Court finds there is no basis in fact or law to support a federal claim.
19 Specifically, the Court is unable to even guess at what transpired, and it is impossible to
20 attribute any specific acts to any specific Defendant. The Court can only guess, given he
21 sues the Pima County Sheriffs Department, that he is not complaining about a denial of
22 benefits but is complaining about some sort of seizure by a Pima County Sheriff of food
23 he purchased using food stamps. His allegations do not support a section 1983 claim against
24 a municipality because he does not allege that the "execution of a government's policy or
25 custom ... inflict[ed] the injury." *Monell v. Department of Social Services*, 436 U.S. 658,
26 694 (1978) (municipality not liable for under *respondeat superior* theory for acts of its
27 employees).

1 In drafting the Amended Complaint, the Plaintiff must include sufficient factual
2 details so that this Court can determine each claim existing against each Defendant. The
3 Plaintiff must refer by name to a particular Defendant, whenever possible, in the body of
4 the Amended Complaint, so that it is possible to determine which Defendant is being
5 charged with responsibility for each particular grievance. *Jackson v. Nelson*, 405 F.2d 872,
6 873 (9th Cir. 1968).

7 Plaintiff's "obligation to provide the grounds of his entitlement to relief requires
8 more than labels and conclusions, and a formulaic recitation of the elements of a cause of
9 action will not do." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007). At the
10 pleading stage, the Plaintiff must allege enough facts, if taken as true, to suggest that a
11 claim exists. This does not impose a probability requirement at the pleading stage, it simply
12 calls for enough facts to raise a reasonable expectation that discovery will reveal evidence
13 to support the claim. *Id.* at 555-556. "[F]actual allegations must be enough to raise a right
14 to relief above the speculative level, . . . on the assumption that all the allegations in the
15 complaint are true even if doubtful in fact." *Id.*

16 **Accordingly,**

17 **IT IS ORDERED** that the Motion to Proceed in Forma Pauperis, without
18 prepayment of fees and costs or security therefor (Doc. 2) is GRANTED, and that the
19 Complaint be filed.

20 **IT IS FURTHER ORDERED** that the Clerk of the Court shall file the Complaint,
21 with a filing date of the day the Clerk of the Court received the petition. *Cooper v. City of*
22 *Ashland*, 871 F.2d 104, 105 (9th Cir. 1989).

23 **IT IS FURTHER ORDERED** dismissing the Complaint, *sua sponte*.

24 **IT IS FURTHER ORDERED** that Plaintiff has leave to file an Amended
25 Complaint by October 30, 2019.


26 **IT IS FURTHER ORDERED** that THE AMENDED COMPLAINT MUST BE
27 CLEARLY DESIGNATED AS "AMENDED COMPLAINT" ON THE FACE OF THE
28 DOCUMENT. The Amended Complaint must state specific allegations against proper

1 Defendant(s), named as Defendant(s); and identify who participated in which activities
2 alleged in the Complaint; and state what injury, if any, Plaintiff suffered as a result of the
3 activities of each Defendant. THE AMENDED COMPLAINT MUST BE RETYPED OR
4 REWRITTEN IN ITS ENTIRETY AND MAY NOT INCORPORATE ANY PART OF
5 THE ORIGINAL COMPLAINT BY REFERENCE. Local Rule 7.1(c).

6 **IT IS FURTHER ORDERED** that the Clerk of the Court is directed to DISMISS
7 all claims and to close this case, without further notice to Plaintiff, if Plaintiff fails to file
8 the Amended Complaint by October 30, 2019.

9 Dated this 3rd day of October, 2019.

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Honorable David C. Bury
United States District Judge